

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 308687
ORIGIN EUR-12

INFO OCT-01 IO-13 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00
AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00 EB-07 FRB-03
H-01 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01
AID-05 CIEP-01 SS-15 STR-04 ITC-01 TRSE-00 PRS-01
SP-02 OMB-01 FEA-01 OPIC-03 XMB-02 GSA-01 /100 R

DRAFTED BY EUR/WE:JLIMPRECHT:MS
APPROVED BY EUR - ROBERT E. BARBOUR
TREASURY - MR. SELF
EB/ITP/STA - MR. SPIRO
EUR/WE - MR. ROWELL

----- 086487 /61

O R 212345Z DEC 76
FM SECSTATE WASHDC
TO AMEMBASSY MADRID IMMEDIATE
INFO USMISSION GENEVA
USDEL MTN GENEVA
USMISSION EC BRUSSELS

LIMITED OFFICIAL USE STATE 308687

E.O. 11652: NA

TAGS: ETRD, SP, US

SUBJECT: COUNTERVAILING DUTIES - ZINC

REF: MADRID 9243

1. WE HOPE THE EMBASSY CAN OVERCOME ANY SPANISH UNWILLING-
NESS TO COOPERATE FURTHER IN THE COUNTERVAILING DUTY
INVESTIGATION OF ZINC. WHILE WE RECOGNIZE THE HEAVY
BURDEN THAT SUBSIDY/COUNTERVAIL INVESTIGATIONS SUCH AS THE
CURRENT INVESTIGATION INTO ZINC CREATE FOR THE GOVERNMENTS
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 308687

CONCERNED (REFTEL), WE BELIEVE STRONGLY THAT IT WILL BE
IN THE BEST INTERESTS OF THE SPANISH TO COOPERATE WITH
TREASURY'S INVESTIGATION. THE CONSTRAINTS OF THE
COUNTERVAILING DUTY LAW ARE SUCH THAT IF NO REPLIES TO
TREASURY'S INQUIRIES ARE FORTHCOMING THE PROBABILITY OF
FINAL AFFIRMATIVE FINDINGS WILL BE ENHANCED AND THE COUNTER-

VAILING DUTY RATES THEN IMPOSED ARE LIKELY TO BE HIGHER THAN IF THE SPANISH COOPERATE. (IN THE FOOTWEAR AND BOTTLED OLIVE CASES OF 1974 IN WHICH THE SPANISH PROVIDED DETAILED INFORMATION, THE FINAL COUNTERVAILING DUTY RATES WERE ABOUT 3 PCT IN THE VITAMIN K CASE, WHERE SUCH INFORMATION WAS NOT MADE AVAILABLE, THE RATE IMPOSED WAS 10.5PCT. THE LIKELIHOOD OF HIGH COUNTERVAILING DUTY RATES POSE A SIGNIFICANT POTENTIAL PROBLEM FOR THE SPANISH;

I.E., HIGH DUTIES WILL SERVE AS AN INCENTIVE TO OTHER U.S. INDUSTRIES TO BRING COUNTERVAILING CASES AGAINST SPAIN, WHEREAS THE LOWER DUTIES AROUND 3 SERVE AS MUCH LESS OF AN INCENTIVE TO DO SO. FYI: SPANISH PRODUCERS/EXPORTERS HAVE PROVIDED CERTAIN INFORMATION REQUESTED BY TREASURY.

2. THE EMBASSY AND GOS SHOULD ALSO BE AWARE THAT SUITS ARE PENDING IN THE U.S. CUSTOMS COURT BY U.S. INDUSTRY WHICH, IF SUCCESSFUL WOULD REQUIRE TREASURY TO COUNTERVAIL ALL INDIRECT TAX REBATES, NOT JUST AMOUNTS TREASURY FINDS TO BE OVER-REBATE. TO MAINTAIN ITS POSITION THAT IN THE ABSENCE OF OVER-REBATES, THERE IS NO SUBSIDY, TREASURY'S INVESTIGATIONS OF INDIRECT TAXES MUST BE AS DETAILED AS POSSIBLE.

3. THOUGH THE FINAL DETERMINATION IN THE ZINC CASE IS NOT DUE UNTIL JUNE 17, 1977, TREASURY MAY ACT SOONER BASED ON INFORMATION IT HAS RECEIVED THAT ARRANGEMENTS ARE BEING MADE FOR A SHIPMENT OF 55,000 TONS OF ZINC FROM SPAIN TO THE U.S. IN FEBRUARY. (TOTAL SPANISH ZINC EXPORTS TO U.S. IN 1976 HAVE BEEN ONLY 28,000 TONS).
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 308687

SHOULD THIS REPORT BE CONFIRMED, TREASURY WOULD FEEL CONSTRAINED TO COUNTERVAIL RAPIDLY SINCE IT WOULD APPEAR THAT THE SHIPMENT OF THE ZINC IS INTENDED TO ENTER BEFORE COUNTERVAILING DUTY CAN BE ASSESSED.

4. IN VIEW OF THE LIKELIHOOD THAT COUNTERVAILING DUTY PROBLEMS BETWEEN THE US AND SPAIN WILL CONTINUE AND COULD WORSEN UNLESS THERE IS A NEW AND FULLER UNDERSTANDING ON BOTH SIDES OF THE LONG RANGE PROBLEMS INVOLVED, THE EMBASSY SHOULD INFORM APPROPRIATE GOS OFFICIALS THAT IF THEY AGREE DISCUSSIONS WOULD BE HELPFUL, WE ARE WILLING TO SEND TREASURY DEPUTY ASSISTANT SECRETARY PETER SUCHMAN TO MADRID FOR DISCUSSIONS WITH SPANISH OFFICIALS CONCERNED WITH COUNTERVAILING DUTIES. SUCHMAN WILL BE AVAILABLE TO COME TO MADRID EITHER THE WEEK OF JANUARY 17 OR THE WEEK OF JANUARY 24.

5. IF SPANIARDS DESIRE, WE COULD AGREE TO DESIGNATE

SUCHMAN'S TALKS A QUOTE FORMAL UNQUOTE MEETING OF THE JOINT ECONOMIC COMMITTEE. ALTERNATIVELY THE TALKS COULD BE A PRELIMINARY MEETING UNDER THE AEGIS OF THE COMMITTEE IN THE PATTERN OF DR. GANLEY'S MEETING WITH SPANISH SCIENCE AND TECHNOLOGY OFFICIALS IN OCTOBER. THESE TALKS WOULD NOT PRECLUDE COUNTERVAILING DUTIES FROM BEING AN AGENDA ITEM IN THE JOINT ECONOMIC COMMITTEE MEETING AND THEY MIGHT CLEAR UP SOME MISUNDERSTANDINGS PRIOR TO THAT MEETING.

6. IN THE NOTE VERBAL REPORTED IN REFTEL, THE GOS CONVEYED ITS RESPONSE TO THE REQUEST FOR INFORMATION IN THE ZINC CASE AND ITS CRITICISMS OF US COUNTERVAILING DUTY LEGISLATION. BASED UPON LATEST EMBASSY CONSULTATIONS WITH DEPARTMENT, EMBASSY SHOULD CONVEY THE FOLLOWING POINTS TO GOS WHEN MAKING OFFER OF SUCHMAN VISIT:

A) NOTHING IN GATT ARTICLE XVI OR VI PERMITS OVER-REBATE OF DOMESTICALLY-IMPOSED INDIRECT TAXES, WHETHER TURNOVER OR OTHER TYPE UPON EXPORT.
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 308687

B) THE ONLY BASIS UPON WHICH JUDGMENT CAN BE MADE AS TO WHETHER REBATE ON EXPORT IS EQUAL TO DOMESTIC INCIDENCE OF TAX IS BY ANALYSIS OF DIRECT INPUTS IN PRODUCTION PROCESS, ANALYSIS WHICH CAN ONLY BE MADE ACCURATELY WITH COOPERATION OF GOVERNMENT AND INDUSTRY CONCERNED. THIS IS WHY INFORMATION WAS REQUESTED FROM GOS.

C) PAST TREASURY ANALYSIS HAS FOUND OVER-REBATE IN CASE OF SPANISH FOOTWEAR AND OLIVE EXPORTS ESPECIALLY BECAUSE OF INCLUSION OF TURNOVER TAXES ON INDIRECT FACTOR INPUTS SUCH AS ELECTRICITY TAXES, STAMP TAXES, FUEL TAXES, ETC., IN SPANISH CALCULATIONS.

D) PLEASE MAKE CLEAR THAT WE CANNOT ACCEPT ANY ASSERTION OR INFERENCE THAT TREASURY DETERMINATIONS ARE NOT FAIR AND IMPARTIAL. US COUNTERVAILING DUTY ACTIONS IN PAST HAVE BEEN AND IN FUTURE WILL BE FULLY CONSISTENT WITH OUR INTERNATIONAL OBLIGATIONS AND WITH DATA AVAILABLE TO TREASURY. EVERY EFFORT IS MADE TO VERIFY THE DATA ON WHICH FINAL DETERMINATIONS ARE MADE. SINCE PASSAGE OF TRADE ACT OF 1974, THE US HAS MADE NEGATIVE COUNTERVAILING DUTY DETERMINATION IN 12 CASES, HAS GRANTED WAIVERS IN 10 CASES AND HAS IMPOSED DUTIES IN 8.

E) DISC IS IRRELEVANT IN DISCUSSING APPLICATION OF US COUNTERVAILING DUTY LAW TO SPANISH EXPORTS IN ANY PARTICULAR CASE. WE ARE PREPARED TO DISCUSS THE GATT PANEL FINDINGS ON THE TAX PRACTICES OF THE US, FRANCE, BELGIUM AND THE NETHERLANDS AND OTHERS WITHIN THE GATT AS WE STATED AT

THE TWO GATT MEETINGS SUBSEQUENT TO THE PANEL FINDINGS AND
WE LOOK FORWARD TO HEARING THE VIEWS OF THE GOS WHEN A
FULLER DISCUSSION IS POSSIBLE AFTER STUDYING THOSE FINDINGS.

KISSINGER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ZINC, INVESTIGATIONS, EXPORT SUBSIDIES, COUNTERVAILING DUTIES
Control Number: n/a
Copy: SINGLE
Draft Date: 21 DEC 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE308687
Document Source: CORE
Document Unique ID: 00
Drafter: JLIMPRECHT:MS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760468-1324
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761223/aaaaatkp.tel
Line Count: 173
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 MADRID 9243
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 07 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07 APR 2004 by ellisoob>; APPROVED <04 AUG 2004 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: COUNTERVAILING DUTIES - ZINC
TAGS: ETRD, SP, US
To: MADRID
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006